

Remarks / Arguments

Claims 6, 7, 14-19, 21, and 24 are pending in this application. Claims 6, 7, 14-19, 21, and 24 have been amended. Claims 1-5, 8-13, 20, 22, 23, and 25-28 have been cancelled. No new matter has been added.

Rejection under §103

Claims 3-19 and 21 were rejected under §103 in view of Rosentreter '638, on grounds that the reference discloses compounds which are structurally similar to those presently claimed, and that some of the presently claimed compounds are homologs of certain of the prior art compounds.

The compounds of the cited reference which the examiner is employing as reference compounds are compounds which the present applicants have removed from their claim coverage by various provisos, and the compounds of this application which the examiner maintains are homologs of the reference compounds are related compounds which were not removed from the claims of this application by proviso.

One might argue that the examiner has employed impermissible hindsight in view of the applicants' own claim language in arriving at prior art compounds on which to base her obviousness rejection, and might argue further that the compounds of the present claims are not, strictly speaking, homologs of the reference compounds. However, to advance the prosecution of this application, the applicants have now cancelled claims 3, 4, 5, and their dependent claims 8-13, and have converted claims 6 and 7 into independent claims by inserting the structural formula (I). Claims 14-16 continue to depend from claim 6, and claims 17-19 continue to depend from claim 7. Claims 6, 7 and 14-19 have been further amended for greater clarity in the definition of "W", and in claims 7 and 14 "angeordnet ist" has been removed as it is a residue from the original German which should not have been left in the translated document. Other minor revisions are of a formal nature. The examiner may notice that in claims 6 and 7, formula (I) exhibits elements which are subsequently defined as "absent" in the language of the claims. This results from the conversion of these claims from dependent form into independent form. If

the examiner would desire that the applicants revise the structural formula in claims 6 and 7 to delete those “absent” elements and adjust the claim language accordingly, applicants are prepared to do so.

By converting claims 6 and 7 into independent form and making these claims the head claims, the applicants have narrowed the claim scope to cover their examples more closely, and have removed all claims containing provisos. The result of these amendments is that the presently claimed compounds are now further removed structurally from the compounds of the ‘638 Rosentreter reference, and arguably not obvious in view of them.

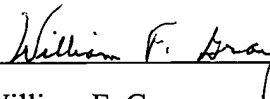
Applicants reserve the right to pursue broader claims in one or more continuing applications.

Claim 21, drawn to a pharmaceutical composition, has been amended to require at least one compound as claimed in claim 6 or 7. This claim should be allowable when claims 6 and 7 are found to be allowable.

Claim 24 was objected to as being dependent upon a rejected base claim, the examiner stating that it would be allowable if written in independent form. Applicants point out that claim 24 has always been written in independent form, and that the language referring to various compound claims was simply “shorthand”. The examiner will note that the language relating to claims directed to compounds did not further limit those claims in any way. Claim 24 has now been amended to recite compounds of claim 6 or claim 7. This language is still “shorthand”, and independent claim 24 should be allowable once claims 6 and 7 are found to be allowable.

In view of the above amendments and arguments, the claims of this application are deemed to be in condition for allowance, and allowance is accordingly requested.

Respectfully submitted,

A handwritten signature in cursive script, reading "William F. Gray", is positioned above a horizontal line.

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